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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 SEAN S. ESCHELBACH,  
8 Plaintiff,  
9 v.  
10 JAYMIE DONS II, *et al.*,  
11 Defendants.  
12

Case No. 2:24-cv-02131-RFB-NJK

**ORDER**

13 **I. INTRODUCTION**

14 Plaintiff Sean S. Eschelbach brings this civil-rights action under 42 U.S.C. § 1983 to  
15 redress constitutional violations that he claims he suffered at High Desert State Prison. ECF No.  
16 1-1. On April 18, 2025, this Court ordered Eschelbach to update his address by May 19, 2025.  
17 ECF No. 7. That deadline expired without an updated address or any other response from  
18 Eschelbach, and his mail from the Court is being returned as undeliverable.

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20 **II. DISCUSSION**

21 District courts have the inherent power to control their dockets and “[i]n the exercise of  
22 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.  
23 Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may  
24 dismiss an action based on a party’s failure to obey a court order or comply with local rules. See  
25 Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply  
26 with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal  
27 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In  
28 determining whether to dismiss an action on one of these grounds, the Court must consider: (1)

1 the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its  
2 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of  
3 cases on their merits; and (5) the availability of less drastic alternatives. See In re  
4 Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone v.  
5 U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987)).

6 The first two factors, the public's interest in expeditiously resolving this litigation and the  
7 Court's interest in managing its docket, weigh in favor of dismissal of Eschelbach's claims. The  
8 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
9 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading ordered  
10 by the court or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976).  
11 The fourth factor—the public policy favoring disposition of cases on their merits—is greatly  
12 outweighed by the factors favoring dismissal.

13 The fifth factor requires the Court to consider whether less drastic alternatives can be used  
14 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish  
15 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic  
16 alternatives *before* the party has disobeyed a court order does not satisfy this factor); accord  
17 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive  
18 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives  
19 prior to disobedience of the court's order as satisfying this element[,]” i.e., the “initial granting of  
20 leave to amend coupled with the warning of dismissal for failure to comply[,]” have been “eroded”  
21 by Yourish). Courts “need not exhaust every sanction short of dismissal before finally dismissing  
22 a case, but must explore possible and meaningful alternatives.” Henderson v. Duncan, 779 F.2d  
23 1421, 1424 (9th Cir. 1986).

24 This action cannot realistically proceed without the ability for the Court and the defendants  
25 to send Eschelbach case-related documents, filings, and orders, and litigation cannot progress  
26 without Eschelbach's compliance with the Court's orders. The only alternative is to dismissal is to  
27 enter a second order setting another deadline for Eschelbach to file his current address with the  
28 Court. But without an updated address, the likelihood that the second order would even reach

1 Eschelbach is low, so issuing a second order will only delay the inevitable and further squander  
2 the Court's finite resources. Setting another deadline is not a meaningful alternative given these  
3 circumstances. So the fifth factor favors dismissal.

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5 **III. CONCLUSION**

6 Having thoroughly considered these dismissal factors, the Court finds that they weigh in  
7 favor of dismissal.

8 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice based  
9 on Eschelbach's failure to file his updated address in compliance with this Court's April 18, 2025,  
10 Order. The Clerk of Court is directed to enter judgment accordingly and close this case. No other  
11 documents may be filed in this now-closed case. If Eschelbach wishes to pursue his claims, he  
12 must file a complaint in a new case.

13 **IT IS FURTHER ORDERED** that Eschelbach's application to proceed *in forma pauperis*  
14 (ECF No. 1) is **DENIED** as moot.

15 **IT IS FURTHER ORDERED** that that Eschelbach may move to reopen this case and  
16 vacate the judgment by filing a motion for reconsideration of this order. In this motion, Eschelbach  
17 is required to explain what circumstances the led his to failure to file his updated address with the  
18 Court. If the Court finds there to be good cause or a reasonable explanation therein, the Court will  
19 reopen the case and vacate the judgment.

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21 **DATED:** May 29, 2025.

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24 **RICHARD F. BOULWARE, II**  
25 **UNITED STATES DISTRICT JUDGE**  
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